

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JENIERE K. EVANS,

Plaintiff,

-v-

CITY OF NEW YORK and
SAMARITAN DAYTOP VILLAGE,

Defendants.

21 Civ. 8660 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

Plaintiff, who is proceeding *pro se*, filed a complaint in this action on October 21, 2021. Dkt. 2. On October 22, 2021, the Court issued an Order instructing “the Clerk of Court . . . to fill out a U.S. Marshals Service Process Receipt and Return form (‘USM-285 form’) for each defendant” and “to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon each defendant.”¹ Dkt. 5 at 2. A summons was issued as to each Defendant on November 9, 2021 and the docket reflects that the service package was hand delivered to the U.S. Marshals that same day. Dkt. 6. On December 3, 2021, Defendant City of New York appeared in this action. Dkt. 8. On February 7, 2022, Plaintiff submitted a request for an extension of time to serve Defendant Samaritan Daytop Village, to the extent this Defendant has not yet been served, Dkt. 18 at 1, and the Court granted Plaintiff’s request the next day, extending the deadline for Plaintiff to serve Defendant Samaritan Daytop Village until

¹ On October 22, 2021, the Court granted Plaintiff permission to proceed *in forma pauperis* (“IFP”). Dkt. 3. Because Plaintiff has been granted permission to proceed IFP, Plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

March 10, 2022, Dkt. 19 at 2.

On March 1, 2022, Plaintiff filed a “Declaration of Service by Hand Delivery,” declaring that Plaintiff served the “Notice of Claim” and “Complaint / Statement” by personally hand delivering the documents to Defendant Samaritan Daytop Village. Dkt. 20. Federal Rule of Civil Procedure 4(c)(2) provides that “[a]ny person who is at least 18 years old and *not a party* may serve a summons and complaint.” Accordingly, Plaintiff—a party to this action—may not personally serve Defendant Samaritan Daytop Village, and any attempt by Plaintiff to personally serve Defendant as reflected in Plaintiff’s Declaration is improper under Rule 4.

Because the docket does not reflect any status regarding service on Defendant Samaritan Daytop Village by the U.S. Marshals Service, the Court respectfully directs the Clerk of Court to fill out another U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant Samaritan Daytop Village. The Clerk of Court is further directed to issue the summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant Samaritan Daytop Village.

The deadline for Plaintiff to serve Defendant Samaritan Daytop Village is extended until June 1, 2022. The Clerk of Court is respectfully directed to mail a copy of this order to Plaintiff.

SO ORDERED.

Dated: March 2, 2022
New York, New York



JOHN P. CRONAN
United States District Judge